

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>Michael A. Christian</b>	)	
Claimant	)	
VS.	)	
	)	
<b>Goodyear Tire &amp; Rubber Co.</b>	)	
Respondent	)	Docket No. 268,365
	)	
AND	)	
	)	
<b>Liberty Mutual Insurance Co.</b>	)	
Insurance Carrier	)	

**ORDER**

Respondent appeals the November 20, 2002 Award entered by Administrative Law Judge (ALJ) Brad E. Avery. The Appeals Board (Board) heard oral argument in Topeka, Kansas, on June 3, 2003. Gary Peterson was appointed and participated as a Board Member Pro Tem.

**APPEARANCES**

John J. Bryan of Topeka, Kansas, appeared for claimant. John A. Bausch of Topeka, Kansas, appeared for respondent and its insurance carrier.

**RECORD AND STIPULATIONS**

The Board considered the records listed in the November 20, 2002, Award together with the Stipulation of August 9, 2003, wherein both parties agreed to the admission into evidence of photocopies of claimant's pay records post accident.

ISSUES

The only issue before the Board is the nature and extent of claimant's disability.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

The Board finds that the ALJ's Award should be modified as to the nature and extent of claimant's disability but should otherwise be affirmed. Specifically, the Board finds claimant sustained a 32.5 percent wage loss based upon a post-injury average weekly wage of \$936.29. This wage was determined by adding \$104.85 average overtime to an average base wage of \$831.44 for a 40 hour work week. When compared to the stipulated pre-injury average weekly wage of \$1,387.49, claimant's wage loss is 32.5 percent. Averaging the 32.5 percent wage loss to the 92 percent task loss results in a 62.25 percent work disability.

Award

**WHEREFORE**, the Appeals Board modifies the November 20, 2002 Award by Judge Avery as follows:

The claimant is entitled to 28.74 weeks of temporary total disability compensation at the rate of \$401 per week or \$11,524.74, followed by 220.64 weeks of permanent partial disability compensation at \$401 per week or \$88,475.26 for a 62.25 percent permanent partial general body disability making a total award of \$100,000. As of June 10, 2003, there would be due and owing to the claimant 28.74 weeks of temporary total compensation at \$401 per week in the sum of \$11,524.74 plus 123.12 weeks of permanent partial disability compensation at \$401 per week in the sum of \$49,371.12 for a total due and owing of \$60,895.86 less any amounts previously paid. Thereafter, claimant is entitled to weekly payments of \$401 until the statutory maximum for permanent partial and temporary total disability payments of \$100,000 is reached.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ day of June 2003.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: John J. Bryan, Attorney for Claimant  
John A. Bausch, Attorney for Respondent  
Brad E. Avery, Administrative Law Judge  
Director, Division Workers Compensation